

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WP(C).No. 16707 of 2006(L)

**AGAINST THE ORDER IN EP.938/2000 IN OS.1274/1998 OF MUNSIF
COURT, THRISSUR.**
.....

PETITIONER:

**C.K. SHILIN, S/O. CHAVARATTIL KUMARAN,
AGED 41, NELLIKUNNU DESOM, THRISSUR.**

BY ADV. SRI.G.SREEKUMAR (CHELUR).

RESPONDENT:

**THE FATHIMANATH KURIES (P) LTD.,
KOTTEKAD, KOTTEKAD P.O., KUTTUR VILLAGE,
THRISSUR DISTRICT.**

**BY ADV. SRI.V.R.KESAVA KAIMAL,
SRI.N.M.MADHU.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C). NO.16707/2006:

APPENDIX

PETITIONER'S EXHIBIT:

EXT.P.1: COPY OF THE ORDER PASSED BY THE MUNSIFF COURT THRISSUR IN E.P. NO. 938/00 IN O.S. NO. 1274/98 ON THE FILE OF THE SAID COURT DTD. 09/03/2006.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

PIUS C. KURIAKOSE, J.

.....
W.P.(C)No.16707 OF 2006
.....

DATED THIS THE 3RD JULY, 2007

J U D G M E N T

Impugned in this Writ Petition filed by the 1st judgment-debtor in a proceeding for execution of a money decree is the order of attachment passed by the execution court. The contention of the petitioner is that he is an unskilled worker and therefore his salary is not attachable. But it is virtually conceded by the petitioner that his take-home monthly emoluments come to Rs.4300/-.

2. I notice that while admitting the Writ Petition and granting stay, this Court imposed a condition that the petitioner deposits a sum of Rs.25,000/- within two months from 28.6.2006. The learned counsel for the petitioner asserted before me that the above condition has been complied with and that Rs.25,000/- has been paid before 28.8.2006. The learned counsel for the respondent submits that the petitioner did not adduce any evidence in support of his contention that his salary is not attachable. He has not been able to show any provision of law or any order having force of law which exempts his salary from attachment.

3. Having considered the rival submissions made at the Bar, I am of the view that this Writ Petition can be disposed of issuing the

following directions:-

The court below will verify whether the petitioner has deposited or paid Rs.25,000/- towards the decree-debt on or before 28.8.2006. If on verification it is seen that the petitioner has made the payment or deposit as directed by this Court, then the court below will keep in abeyance the order of attachment to the extent the same has been passed against him, on condition that on the first day of every month commencing from 1st August, 2007 he pays a sum of Rs.1000/- to the decree-holder towards the decree-debt till the entire decree-debt is paid off. It is however clarified that in the event of the petitioner defaulting such payments, the order of stay will stand vacated and the impugned order will revive.

(PIUS C.KURIAKOSE, JUDGE)

tgl

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